

## REMARKS

### INTRODUCTION:

As set forth in the preceding section, claims 1, 44 and 45 have been amended. Support for the amendments may be found at least at paragraphs [0022] and [0023] of the present application and therefore no new matter has been added.

Claims 1, 2, 3, 5-12, 44 and 45 are pending and under consideration. Claims 1, 44 and 45 are independent claims. Applicant requests reconsideration and allowance of the present application in view of the current amendments and the following remarks.

### REJECTIONS UNDER 35 U.S.C. §112:

Claims 1-3, 5-12, and 44-45 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The rejections are traversed and reconsideration is requested.

The independent claims have been amended to address the rejections and to clarify the recitations. Accordingly, it is respectfully requested these rejections be withdrawn.

### DOUBLE PATENTING:

Claims 1-3, 5-12, and 44-45 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting in view of claim 17-26 and 29 of co-pending Application No. 11/980,642, as set forth in the Office Action at page 4, item 14.

Since the claims of 11/980,642 have not yet been issued as a patent, and since the claims of this application have not yet been indicated as allowable, it is believed that any submission of a Terminal Disclaimer or arguments as to the non-obvious nature of the claims would be premature. MPEP 804.(I)(B). As such, it is respectfully requested that the Applicants be allowed to address any obviousness-type double patenting issues remaining once the rejection of the claims under 35 U.S.C. § 103 is resolved and further that the rejection be reconsidered in light of the amended claims presented above.

### REJECTIONS UNDER 35 USC §103:

Claims 1-2, 5-11, 44 and 45 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5, 768,526 to Fawcett ("Fawcett") in view of U.S. Patent No. 6,314,468 to Murphy et al. ("Murphy"). Claim 3 stands rejected under 35 U.S.C. §103(a) as

being unpatentable over Fawcett in view of Murphy and further in view of U.S. Patent Publication No. 2003/0081791 by Erickson et al. ("Erickson"). Claims 6 and 7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fawcett in view of Murphy and further in view of U.S. Patent No. 7,209,571 to Davis et al. ("Davis Patent"). Claims 8-10 and 12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fawcett in view of Murphy and further in view of U.S. Patent Publication No. 2002/0001395 by Davis et al. ("Davis Publication").

Independent claim 1 has been amended to recite:

transmitting a container including the selected metadata fragment data, the metadata-related information, and a header including data format information indicating a data format type of the selected metadata fragment data,

wherein the metadata-related information comprises values obtained by substituting the selected metadata fragment data into a unidirectional function, which function varies depending on the data format type indicated in the header.

Applicant respectfully submits that the cited portions of Fawcett and Murphy, alone or in combination, fail to suggest or disclose all of the above-claimed features.

The Office Action notes at page 6, item 16, that "Fawcett does not disclose a container comprises a header including data format information indicating a data format type of the selected metadata fragment data resided in the container." Accordingly, since Fawcett does not disclose a container comprising a header including data format information, Fawcett cannot disclose the "function vary[ing] depending on the data format type indicated in the header," as recited above.

However, the Office Action proposes to modify Fawcett based on Murphy and asserts that Murphy "discloses a container comprises a header including data format information indicating a data format type of the selected metadata fragment data resided in the container" at column 5, lines 13-14 and 54-62.

Applicant respectfully traverses the rejection for at least the following reasons.

Murphy is directed to "a method system and computer program product for managing transmission of EDI data included in an electronic message having a header portion, which includes a message format identifier and a length of a data message" (column 5, lines 11-15). The cited portions of Murphy, however, are completely silent with respect to "transmitting a container," as claimed. In fact, a word search reveals that Murphy fails to even mention the term "container." Moreover, Murphy's EDI format as illustrated at FIG. 6 of Murphy merely exemplifies

a generic data format rather than a container, as claimed.

Nevertheless, even assuming for the sake of argument that Murphy describes a "container," Murphy still fails to describe all of the above-recited features of amended claim 1.

For example, FIG. 9b of Murphy illustrates a block diagram illustrating the message format for an EDI message. The text corresponding to FIG. 9b describes header 325, which is followed by a message digest 326 which is created by using a hash algorithm (SHA1) (column 12, lines 45-54). The text however fails to describe hash algorithm (SHA1) varying based on a format indicated by the message format identifier of Murphy.

The Office Action therefore fails to establish that the proposed combination describes all of the above-recited features. In addition, the Office Action fails to establish that any of the other cited references compensates for the noted deficiencies of Fawcett and Murphy.

Accordingly, Applicant respectfully submits that amended independent claim 1 patentably distinguishes over the cited references and should be allowable for at least the above-mentioned reasons. Since similar features recited by independent claim 44, with potentially differing scope and breadth, are not suggested or disclosed by the references, the rejection should be withdrawn and claim 44 also allowed.

Further, Applicants respectfully submit that claims 2, 3 and 5-12, which depend from independent claim 1, should be allowable for at least the same reasons as claim 1, as well as for the additional features recited therein.

Independent claim 45 recites:

transmitting a metadata container-level authentication container including the selected metadata fragment data and the metadata container-level authentication message digest information with a header including data format information indicating a data format type of the selected metadata fragment data, *wherein the data format information is used to determine whether the generated metadata digest information is valid.*

Applicant respectfully submits that the Office Action fails to demonstrate that Fawcett and Murphy, alone or in combination, suggest or disclose all of the above-recited features of claim 45.

The Office Action asserts at page 9 that Fawcett describes all of the above-italicized features at column 4, lines 45-64, which states in part:

Next, at box 213, the receive hash code generated by the receiving component is compared with the transmit hash code 315 included in the APDU 300. Finally, at box 215, if the receive hash code is the same as the transmit hash code 315 included in the APDU 300, then the receiving component accepts the APDU 300 as authentic. However, if the receive hash code is not the same as the transmit hash code 315 included in the APDU 300, then the receiving component discards the APDU 300 as being erroneous.

Thus, as is apparent from the above-cited text, the portion of Fawcett cited in the Office Action merely describes comparing the received hash code generated by the receiving component with the transmit hash code 315 included in the APDU 300 and accepting the APDU 300 as authentic if the receive hash code is the same as the transmit hash code 315.

Applicant submits that this is not the same as *using the data format information* to determine whether the generated metadata digest information is valid because Fawcett instead uses a comparison between the received hash code and the transmit hash code to determine whether the generated metadata digest information is valid.

The Office Action therefore fails to establish that the proposed combination suggests or discloses each and every feature of claim 45 and therefore the rejection should be withdrawn.

Insufficient Reason to Combine Fawcett and Murphy Articulated

Applicant respectfully submits that the rejection fails to establish a prima facie case of obviousness. To establish a prima facie case of obviousness: 1) there must be some suggestion or reason to combine the references, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art; 2) there must be a reasonable expectation of success; and 3) the references must either teach or suggest all the claim limitations or the Office must provide a rationale as to why the differences between the claimed invention and the prior art are obvious. MPEP 2141.

Here, no persuasive citation to the prior art has been offered as providing a suggestion or reason to modify Fawcett based Murphy, nor does the Office Action provide evidence demonstrating an implicit reason to modify the documents. In *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385, 127 SCt 1727 (2007), the U.S. Supreme Court held that in determining obviousness, it is necessary "to determine whether there was an apparent reason to combine the known elements in the fashion claimed" *KSR*, slip op. 14, 82 USPQ2d at 1396.

Further, "there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR* at 1396, quoting *In re Kahn*. With respect to the rejection of claim 1, for example, the reasoning provided in the Office Action for combining Fawcett and Murphy states:

Therefore it would have been obvious to a person skilled in the art at the time the invention was made to have included in Fawcett the feature of Murphy as discussed above for managing secure transmission of electronic data in EDI format between network entities over dedicated circuits or WANS (column 4, lines 55-58).

Applicant asserts that the cited rationale for combining Fawcett and Murphy is merely a conclusion and therefore fails to meet the standard articulated by the Supreme Court in *KSR International Co. v. Teleflex Inc.* In fact, the Office appears to have performed a search to find a random patent publication that describes "a header including data format information," without making any attempt to demonstrate that Murphy is relevant to either Fawcett, or to the problems that the presently claimed invention seeks to overcome.

For example, the Office Action bases the rejection on the assumption that Murphy's header is included within a container (Office Action page 6, line 7). The Office Action, however, fails to establish that Murphy even mentions a container. In contrast, Murphy's EDI format as illustrated at FIG. 6 of Murphy merely suggests a generic data format rather than a container.

Consequently, absent a showing that Murphy describes a container the foundation of the rejection is in error.

The Office Action further states that the reason for combining Murphy with Fawcett is that a need exists "for managing secure transmission of electronic data in EDI format between network entities over dedicated circuits or WANS." Fawcett, however, is directed to a method and apparatus for validating data packets *in a paging system*.

The Office Action therefore fails to establish how "secure transmission of electronic data in EDI format," as described in Murphy, is even relevant to the disclosure of Fawcett, given that Fawcett is directed towards a method of validating communications between a transmitting component and a receiving component of a paging system. For example, the National Institute of Standards and Technology in a 1996 publication defines electronic data interchange as "the computer-to-computer interchange of strictly formatted messages that represent documents other than monetary instruments." The Office Action, however, provides no evidence as to why EDI as defined above is even relevant to Fawcett's paging system.

As another example, the portion of Murphy cited in the Office Action further states that its

objective of managing secure transmission of electronic data in EDI format is accomplished "using TCP/IP for connectivity and SSL3 for security in transmission." The current rejection is deficient, however, because the Office Action fails to demonstrate using TCP/IP and SSL3 is even relevant to Fawcett's paging system, which in contrast is implemented over the public switched telephone network (PSTN) (see, e.g., column 2, lines 53-62).

In view of all of the above, Applicant respectfully asserts that the reason provided in the Office Action for combining Murphy with Fawcett is merely a generalized conclusion and is therefore insufficient to meet the burden imposed by KSR. Absent a particularized reason, taking into account the problem that the presently claimed embodiment seeks to address, or a similarly relevant problem, the Examiner's rationale appears to be taken from Applicant's own application, and thus amounts to an improper hindsight reconstruction of the present invention.

Thus, the Office fails to demonstrate that one skilled in the art would have had a reason to combine the teachings of Fawcett with those of Murphy, and the 103(a) rejection is improper.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.


Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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